

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**SHIRLEY PENROD,**

**Plaintiff,**

**-v-**

**JAMES WANSACK, et al.,**

**Defendants.**

**Case No. 3:11-cv-004**

**District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz**

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**ENTRY AND ORDER OVERRULING THE ANALYTIC SCIENCES  
CORPORATION'S OBJECTIONS TO THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATIONS; ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #16) IN ITS  
ENTIRETY AND OVERRULING THE ANALYTIC SCIENCES  
CORPORATION'S MOTION TO DISMISS**

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This matter comes before the Court pursuant to Magistrate Judge Michael R. Merz's Report and Recommendations regarding Defendant The Analytic Sciences Corporation's ("TASC's") Motion to Dismiss. (Doc. No 9). In its Motion to Dismiss, TASC seeks dismissal of the Complaint on the ground that it is time-barred. The Magistrate Judge issued a Report and Recommendation recommending that TASC's Motion be overruled. (Doc. No. 16).

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that the Magistrate Judge's Report and Recommendations is adopted in its entirety. The Magistrate Judge correctly found that the action is not time-barred because TASC properly received notice within the 120-day period prescribed for service under Fed. R. Civ. P. 4(m) and Plaintiff's claim against TASC arose out of the same transaction as the claims she attempted to make against the original individual Defendants. TASC's Motion to Dismiss is **OVERRULED**.

**DONE** and **ORDERED** in Dayton, Ohio, this Thirty-First Day of May, 2011.

**s/Thomas M. Rose**

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record